

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

COLLETTE JENKINS

Plaintiff,

v.

LL ATLANTA, LLC d/b/a OPERA  
NIGHT CLUB and MGAGE, LLC,

Defendants.

Civil Action No.: 1:14-cv-2791

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT  
OR, IN THE ALTERNATIVE, PARTIAL SUMMARY JUDGMENT  
ON INTENTIONALITY**

COME NOW Defendants mGage, LLC and LL Atlanta, LLC by and through their respective undersigned counsel, and submit this Motion for Summary Judgment, respectfully showing that (i) Plaintiff has failed to meet its evidentiary burden showing that Defendants employed an Automatic Telephone Dialing System ("ATDS") as required under the Telephone Consumer Protection Act ("TCPA"); (ii) the text messages at issue were sent only as the result of human intervention and are thus not actionable under the TCPA; and (iii) Plaintiff cannot show that the Defendants intentionally ignored her requests to discontinue the

transmission of text messages to her cellular telephone.

This 31st day of August, 2015.

Respectfully submitted by:

/s/ Lauren M. Simons

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 31st, 2015, I electronically filed Defendants' Motion for Summary Judgment with the Clerk of Court using the CM/ECF system and via email pursuant to agreement by the parties to the following attorneys of record:

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Dated: August 31, 2015

/s/ Lauren M. Simons

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